



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry
<b>Virginia Administrative Code (VAC) citation</b>	16VAC 25-90-1910.102
<b>Regulation title</b>	Acetylene Standard for General Industry
<b>Action title</b>	Revising Standards Referenced in the Acetylene Standard for General Industry
<b>Final agency action date</b>	April 15, 2010
<b>Document preparation date</b>	January 15, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Federal OSHA revised its Acetylene Standard for general industry by updating references to national consensus standards published by standards developing organizations (“SDO standards”). This rulemaking is a continuation of federal OSHA’s ongoing effort to update references to SDO standards used throughout its rules.

The revised standard requires that employers ensure that in-plant transfer, handling, storage and use of acetylene cylinders comply with Compressed Gas Association Pamphlet G-1-2003, Acetylene. Piping systems, as well as facilities and equipment, used to generate acetylene or to fill acetylene cylinders are now required to comply with National Fire Protection Standard NFPA 51A, *Standard for Acetylene Charging Plants*.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On January 14, 2010, the Safety and Health Codes Board adopted federal OSHA’s Direct Final Rule on Revising Standards Referenced in the Acetylene Standard for General Industry, §1910.102, as published in 74 FR 40441 on August 11, 2009, with an effective date of April 15, 2010.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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The revisions will have no impact on the institution of the family and family stability.

To access the Direct Final Rule on Revising Standards Referenced in the Acetylene Standard for General Industry, §1910.102, please see attachment or go to:

[http://www.osha.gov/FedReg\\_ osha\\_pdf/FED20090811.pdf](http://www.osha.gov/FedReg_ osha_pdf/FED20090811.pdf)

**Revising Standards Referenced in the Acetylene Standard, §1910.102; Direct Final Rule**

As Adopted by the  
Safety and Health Codes Board

Date: January 14, 2010



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: April 15, 2010

16 VAC 25-90-1910.6  
16 VAC 25-90-1910.102

When the regulations, as set forth in the Direct Final Rule on Revising Standards Referenced in the Acetylene Standard, §1910.102, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

November 9, 2009

April 15, 2010

5th Floor, Chantilly, VA 20151; telephone: 703-788-2700; fax: 703-961-1831; e-mail: *cga@cganet.com*.

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(q) \* \* \*

(34) NFPA 51A (2001) Standard for Acetylene Cylinder Charging Plants, IBR approved for § 1910.102(b) and (c). Copies of NFPA 51A-2001 are available for purchase from the: National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471; telephone: 1-800-344-35557; e-mail: *custserv@nfpa.org*.

(35) NFPA 51A (2006) Standard for Acetylene Cylinder Charging Plants, IBR approved for § 1910.102(b) and (c). Copies of NFPA 51A-2006 are available for purchase from the: National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471; telephone: 1-800-344-35557; e-mail: *custserv@nfpa.org*.

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**Subpart H—[Amended]**

- 3. Revise the authority citation for subpart H of part 1910 to read as follows:

**Authority:** Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), and 5-2007 (72 FR 31159), as applicable.

Sections 1910.103, 1910.106 through 1910.111, and 1910.119, 1910.120, and 1910.122 through 1910.126 also issued under 29 CFR part 1911.

Section 1910.119 also issued under Section 304, Clean Air Act Amendments of 1990 (Pub. L. 101-549), reprinted at 29 U.S.C. 655 Note.

Section 1910.120 also issued under Section 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), and 5 U.S.C. 553.

- 4. Revise § 1910.102 to read as follows:

**§ 1910.102 Acetylene.**

(a) *Cylinders.* Employers must ensure that the in-plant transfer, handling, storage, and use of acetylene in cylinders comply with the provisions of CGA Pamphlet G-1-2003 ("Acetylene") (Compressed Gas Association, Inc., 11th ed., 2003).

(b) *Piped systems.* (1) Employers must comply with Chapter 9 ("Acetylene Piping") of NFPA 51A-2006 ("Standard for Acetylene Charging Plants") (National Fire Protection Association, 2006 ed., 2006).

(2) When employers can demonstrate that the facilities, equipment, structures, or installations used to generate acetylene or to charge (fill) acetylene cylinders were installed prior to February 16, 2006, these employers may comply with the provisions of Chapter 7 ("Acetylene Piping") of NFPA 51A-2001 ("Standard for Acetylene Charging Plants") (National Fire Protection Association, 2001 ed., 2001).

(3) The provisions of § 1910.102(b)(2) also apply when the facilities, equipment, structures, or installations used to generate acetylene or to charge (fill) acetylene cylinders were approved for construction or installation prior to February 16, 2006, but constructed and installed on or after that date.

(4) For additional information on acetylene piping systems, see CGA G-1.2-2006, Part 3 ("Acetylene piping") (Compressed Gas Association, Inc., 3rd ed., 2006).

(c) *Generators and filling cylinders.* (1) Employers must ensure that facilities, equipment, structures, or installations used to generate acetylene or to charge (fill) acetylene cylinders comply with the provisions of NFPA 51A-2006 ("Standard for Acetylene Charging Plants") (National Fire Protection Association, 2006 ed., 2006).

(2) When employers can demonstrate that the facilities, equipment, structures, or installations used to generate acetylene or to charge (fill) of acetylene cylinders were constructed or installed prior to February 16, 2006, these employers may comply with the provisions of NFPA 51A-2001 ("Standard for Acetylene Charging Plants") (National Fire Protection Association, 2001 ed., 2001).

(3) The provisions of § 1910.102(c)(2) also apply when the facilities, equipment, structures, or installations were approved for construction or installation prior to February 16, 2006, but constructed and installed on or after that date.

[FR Doc. E9-18644 Filed 8-10-09; 8:45 am] BILLING CODE 4510-26-P

**PART 1910—[AMENDED]**

**Subpart A—[Amended]**

- 1. Revise the authority citation for subpart A of part 1910 to read as follows:

**Authority:** Sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order Numbers 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), and 5-2007 (72 FR 31159), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106-113 (113 Stat. 1501A-222); and OMB Circular A-25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

- 2. Amend § 1910.6 as follows:
  - A. Revise paragraph (k)(3).
  - B. Remove paragraphs (k)(4) and (k)(5), and redesignate paragraphs (k)(6) through (k)(15) as paragraphs (k)(4) through (k)(13).
  - C. Add new paragraphs (q)(34) and (q)(35).

The additions and revisions read as follows:

**§ 1910.6 Incorporation by reference.**

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(k) \* \* \*

(3) CGA G-1-2003 Acetylene, IBR approved for § 1910.102(a). Copies of CGA Pamphlet G-1-2003 are available for purchase from the: Compressed Gas Association, Inc., 4221 Walney Road,